

## **VIRGINIA: IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY**

In Re: A Petition of at Least 1,796 Registered Voters Residing in the Gainesville Magisterial District for Judicial Recall of Peter K. Candland, Member of the County Board of Supervisors

Peter K. Candland  
Respondent

### **PETITION**

1. Peter K. Candland is the Gainesville Magisterial District member of the Prince William County Board of Supervisors duly elected to office in 2019 by a majority of qualified voters. The total votes cast in that 2019 election for County Board Member for the Gainesville District in the 2019 election totaled 17,952.
2. This petition seeks the judicial recall of Peter K. Candland pursuant to § 24.2-233 of the Code of Virginia (1950) as amended for neglect of duty and misuse of office where that neglect of duty and misuse of office has had a material adverse effect upon the conduct of the office and has been signed by at least 10% or at least 1,796 qualified registered voters living in the Gainesville Magisterial District of Prince William County.
3. The undersigned qualified voters of the Gainesville Magisterial District of Prince William County seek the immediate suspension of Peter K. Candland from the Prince William County Board of Supervisors upon the filing of this petition, as allowed for by § 24.2-236 of the Code of Virginia (1950) as amended, and subsequently set a trial for his removal from office.

### **FACTS**

1. This petition involves the conduct and actions of Supervisor Candland from October 25, 2021 to the present, occurring in Prince William County.
2. On October 25, 2021, Supervisor Candland did execute both a Comprehensive Plan Amendment Initiation Form and Special Power of Attorney and Interest Disclosure Statement to include his property at 12888 Livia Drive, Catharpin, VA 20143, GPIN# 7499-64-5227 in Comprehensive Plan Amendment CPA 2021-00004 (PW Digital Gateway) to change the long-range land use from AE, Agricultural or Estate and ER, Environmental Resource to Technology / Flex (T/F) with a T-3 Transect. The intent is to create a digital corridor and include related impacts on supporting infrastructure and consider alternative comparable land use designation options that meet the needs of the Applicant and the priorities of the Prince William Board of County Supervisors, specifically to allow for data center development outside the Data Center Opportunity Zone Overlay District on properties currently zoned agricultural (see Exhibit A).

3. On November 2, 2021, Supervisor Candland executed a Disclosure of Personal Interest and Disqualification from Participation in a Transaction in Accordance With Virginia Code §§ 2.2-3112(A) and 2.2-3115(F), disqualifying him from participating in Comprehensive Plan Amendment #CPA2021-00004, PW Digital Gateway (see Exhibit B).
4. At the December 7, 2021 Prince William County Board of Supervisors Meeting (hereafter BOCS Meeting), Supervisor Candland participated in a closed meeting for consultation with legal counsel regarding legal advice regarding tax assessment law, and actual or probable litigation in the matters of Board of Equalization 2018 tax assessment cases regarding several data centers in Prince William County (see Exhibit C).
5. At the December 7, 2021 BOCS Meeting, Supervisor Candland participated in a closed meeting regarding legal advice regarding land use law, and actual or probable litigation in the matters of Rezoning and Proffer Amendment #REZ2021-0001 and Special Use Permit #SUP 2021-0002, I-66 and Route 29 Technology Park, a Rezoning case regarding an application for a data center complex in the vicinity to the PW Digital Gateway (see Exhibit C).
6. At the December 7, 2021 BOCS Meeting, Supervisor Candland voted “nay” in the matter of Rezoning and Proffer Amendment #REZ2021-00001, I-66 and Route 29 Technology Park (see Exhibit C).
7. At the December 7, 2021 BOCS Meeting, Supervisor Candland voted “nay” in the matter of Special Use Permit #SUP2021-00002, I-66 and Route 29 Technology Park (see Exhibit C).
8. At the January 18, 2022 BOCS Meeting, Supervisor Candland voted “aye” to direct Staff to Postpone for Four to Six Weeks the Data Center Opportunity Zone Overlay District Community Meeting Scheduled for January 20, 2022 see (Exhibit D).
9. At the March 1, 2022 BOCS Meeting, Supervisor Candland voted aye to Transfer, Budget, and Appropriate – \$300,000 in Proffer Funds to the Pageland Lane Right Turn Lane Project that directly impacts CPA2021-00004 (See Exhibit E).
10. At the March 1, 2022 BOCS Meeting, Supervisor Candland voiced no opposition to a staff directive to Remove the Bi-County Parkway from Staff’s Work Program in the Mobility Plan Update and to Focus on, and Bring Forward, Local Improvements and Solutions Versus a Regional Facility, despite the inclusion of such Local Improvements in CPA2021-00004 (See Exhibit F).
11. At the March 1, 2022 BOCS Meeting, Supervisor Candland voted nay on the adoption of the Fiscal Year 2023 Real Estate Property Tax Levy, Fire Levy, Personal Property Tax Levies, Business, Professional and Occupational License Tax Levies, Motor Vehicle License Tax Levies, Personal Property Tax Relief, Special District Levies, and Parks, Recreation, and Tourism Fees to Support the Fiscal Year 2023 All Funds Budget which

include an increase in the Computer Peripherals Tax applied to data centers (See Exhibit E).

12. On April 3, 2022, Supervisor Candland participated in a meeting of nearby property owners and, on information and belief, counseled them on how to pursue rezoning of their properties to allow for data centers like the adjacent parcels in the PW Digital Gateway application (See Exhibit F).
13. At the May 10, 2022 BOCS Meeting, Supervisor Candland participated in a work session regarding the Comprehensive Plan Update – Pathway to 2040, including a discussion of a land use category designated PW Digital Gateway for the properties encompassed by CPA2021-00004 (See Exhibit G).
14. On May 20, 2022, Amy Ashworth, Commonwealth’s Attorney for Prince William County, in response to a request by Supervisor Candland, rendered a written opinion under the State and Local Government Conflict of Interests Act (see Exhibit H). Said opinion noted the included the following:
  - Supervisor Candland may not participate in the discussion, consideration and/or vote on any rezoning application that involves coordination with the rezoning application involving data center(s) in the PW Digital Gateway CPA area.
  - Supervisor Candland may not participate in the discussion, consideration and/or vote on any matter involving data center(s) in the PW Digital Gateway CPA area.
  - Supervisor Candland may not participate in the discussion, consideration and/or vote on any matter involving data center(s) in the vicinity of the PW Digital Gateway CPA area.
  - Supervisor Candland may participate in the discussion, consideration and/or vote involving a data center in the Rural Area, so long as it is not in the vicinity of the PW Digital Gateway CPA area.
  - Supervisor Candland may not participate in the discussion, consideration, and/or vote on an amendment to the text of and/or map for the Data Center Opportunity Zone Overlay District, County Code Sec. 32- 509.01 et seq., while the PW Digital Gateway CPA and/or the rezoning application including his property is pending.
15. At the May 24, 2022 BOCS Meeting, Supervisor Candland voted “aye” to initiate Comprehensive Plan Amendment #CPA2022-00015, Devlin Technology Park to allow for a data center outside the Data Center Opportunity Zone Overlay District (See Exhibit I).
16. On May 24, 2022, H&H Capital Acquisitions filed a rezoning application for the northern portion of the PW Digital Gateway project. That application included includes a Limited Power of Attorney executed February 6, 2022 and a Special Power of Attorney executed February 4, 2022 regarding a purchase agreement between Candland and H&H Capital Acquisitions LLC (see Exhibit J). Upon information and belief, the purchase price offer is between approximately \$900,000 and \$1,000,000 per acre.

17. On numerous occasions Supervisor Candland has ignored the County Attorney's counsel and public comment with respect to recusing himself from these issues. Most notably, at the 3:03:49 mark of the January 18, 2022 BOCS Meeting, Supervisor Candland asserted that he differed with the County Attorney's recommendation that he recuse himself from a vote on the directive to Staff to Postpone for Four to Six Weeks the Data Center Opportunity Zone Overlay District Community Meeting Scheduled for January 20, 2022. Similarly, at the 1:49:00 mark of the February 1, 2022 BOCS meeting, when voting on a the execution of and amended agreement of sale of County Owned Property to Innovation Development, LLC, Supervisor Candland disclosed that he lived in the same neighborhood as the manager but did not disclose that the manager is Supervisor Candland's authorized agent and attorney-in-fact for CPA 2021-00004.
18. Upon information and belief, Supervisor Candland has not completed training on the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) as required under § 2.2-3132 of the Code of Virginia.

### **NEGLECT OF DUTY AND MISUSE OF OFFICE**

19. All previous paragraphs are attached and incorporated herein.
20. On October 25, 2021 (hereinafter "that date"), Supervisor Candland willfully executed a Comprehensive Plan Amendment Initiation Form and Special Power of Attorney and Interest Disclosure Statement to include his property at 12888 Livia Drive, Catharpin, VA 20143.
21. Subsequent to that date, Supervisor Candland willfully participated in open and closed meeting discussions regarding tax assessment of data centers similar to those proposed in CPA 2021-00004.
22. Subsequent to that date, Supervisor Candland willfully participated in the discussion, consideration and/or vote on matters involving data centers in the vicinity of the PW Digital Gateway CPA area, voting nay on those in closest proximity.
23. Subsequent to that date, Supervisor Candland willfully participated in the discussion, consideration and/or vote on matters involving the Data Center Opportunity Zone Overlay District that could impact CPA 2021-00004.
24. Subsequent to that date, Supervisor Candland willfully participated in the discussion, consideration and/or vote on matters regarding the expenditure of public funds for transportation improvements contained in or adjacent to the PW Digital Gateway CPA.

25. Subsequent to that date, Supervisor Candland willfully participated in the discussion, consideration and/or vote on the Computer Peripherals Tax which would impact the data centers proposed in CPA 2021-00004.
26. Subsequent to that date, Supervisor Candland willfully participated in a meeting of nearby property owners and, on information and belief, counseled them on how to pursue rezoning of their properties to allow for data centers like the adjacent parcels in the PW Digital Gateway application.
27. Subsequent to that date, Supervisor Candland willfully participated in a work session regarding the Comprehensive Plan Update – Pathway to 2040, including a discussion of a land use category designated PW Digital Gateway and located on properties subject to CPA 2021-00004.
28. Subsequent to that date, the County Attorney has disqualified Supervisor Candland from discussion and action and matters regarding CPA 2021-00004 and counseled Supervisor Candland to recuse himself from matters related to or in close proximity to CPA 2021-00004.
29. Subsequent to that date, Supervisor Candland has selectively ignored the County Attorney's counsel with respect to recusing himself from several of those matters.
30. Upon information and belief, Supervisor Candland has willfully failed to complete training on the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) as required under § 2.2-3132 of the Code of Virginia.
31. Supervisor Candland waited approximately seven months from that date to seek an opinion regarding these conflicts from Commonwealth's Attorney for Prince William County.
32. Pursuant to counsel from the Commonwealth's Attorney, Supervisor Candland did not attend the June 7, 2022 BOCS Work Session on Water Quality and Supply in Prince William County .
33. Subsequent to October 25, 2022, Supervisor Candland has willfully violated numerous provisions of Chapter 31 of the Code of Virginia.
34. For the forgoing reasons, Supervisor Candland has willfully committed knowing violations of § 2.2-3122 of the Code of Virginia which constitutes malfeasance in office.
35. Upon information and belief, Supervisor Candland's participation in the transactions only affects his personal interest.

### **MATERIAL ADVERSE EFFECT**

36. As a result of his actions subsequent to October 25, 2022, Supervisor Candland has placed his own personal and financial interests above those of the residents of the Gainesville Magisterial District.
37. As a result of his actions subsequent to October 25, 2022, Supervisor Candland has selectively left the residents of the Gainesville Magisterial District without representation at the Prince William County Board of County Supervisors on matters impacting the Gainesville Magisterial District.
38. As a result of his actions subsequent to October 25, 2022, Supervisor Candland has selectively voted on land use matters within and/or impacting the Gainesville Magisterial District, votes which he should have been disqualified from casting.
39. As a result of his selective actions subsequent to October 25, 2022, Supervisor Candland has cast doubt on the legitimacy of votes by the Prince William County Board of County Supervisors.
40. Supervisor Candland has had discussions, consideration and/or vote on matters before the BOCS without disclosure of his personal and business relationships with the parties involved.
41. Supervisor Candland has voted in the affirmative on the expenditure of public funds on public projects that would benefit his personal and financial interests.
42. Supervisor Candland has voted on proposed tax rates that would benefit his personal and financial interests.
43. The Commonwealth's Attorney has disqualified Supervisor Candland from discussion, consideration and/or vote on several land use matters comprising matters of Countywide application as well as several matters located within the Gainesville Magisterial District, effectively depriving residents of the Gainesville Magisterial District of representation on those matters before the BOCS.
44. Thus the residents of the Gainesville Magisterial District have already suffered demonstrable harm that will continue until Supervisor Candland is removed from office.
45. The undersigned qualified voters of the Gainesville Magisterial District of Prince William County find that each of the foregoing grounds could be deemed severable.

Wherefore, voters consisting of at least 10% of the votes cast in the 2019 election, or at least 1,796 qualified voters residing in the Gainesville Magisterial District move this Court for the removal of Supervisor Peter K. Candland, Member of the County Board of Supervisors, from office immediately.

Petition Signatures to follow.